

Introduced: 2/4/74  
Referred: Labor & Management  
and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 544

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workmen's compensation; and pro-  
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 23.30.005(g) is repealed.

10 \* Sec. 2. AS 23.30.005(h) is amended to read:

11 (h) The full board may make [IDENTICAL] rules [FOR BOTH PANELS]  
12 and [MAY MAKE] regulations to carry out the provisions of this chapter.  
13 Process and procedure under this chapter shall be as summary and simple  
14 as possible. The board or a member of it may for the purposes of this  
15 chapter subpoena witnesses, administer or cause to be administered  
16 oaths, and may examine or cause to have examined the parts of the books  
17 and records of the parties to a proceeding which relate to questions in  
18 dispute. The superior court, on application of the board or any members  
19 of it, shall enforce the attendance and testimony of witnesses and the  
20 production and examination of books, papers, and records.

21 \* Sec. 3. AS 23.30.005(j) is amended to read:

22 (j) The board may also arrange to have hearings held by the  
23 commission, officer, or tribunal having authority to hear cases arising  
24 under the workmen's compensation law of any other state, of the District  
25 of Columbia, or of any territory of the United States. The testimony  
26 and proceedings at the hearing shall be reported to the board and is a  
27 part of the record in the case. The cost for preparation of the hearing  
28 transcript shall be paid by the party requesting the hearing. Evidence  
29 taken at the hearing is subject to rebuttal upon final hearing before

1 the board.

2 \* Sec. 4. AS 23.30.010 is repealed.

3 \* Sec. 5. AS 23.30.015(c) is amended to read:

4 (c) Payment of compensation into the second-injury fund as a  
5 result of death operates as an assignment to the employer of all rights  
6 of the representative of the deceased to recover damages from the  
7 third person unless the representative of the deceased begins an action  
8 against the third person within one year after payment into the second-  
9 injury fund. If the representative of the deceased commences an action  
10 against the third person within one year after payment into the second-  
11 injury fund, the employer has no right to the damages recovered by the  
12 representative of the deceased or to any portion of a settlement effec-  
13 tuated by the representative of the deceased or to a refund from the  
14 second-injury fund.

15 \* Sec. 6. AS 23.30.020 is amended to read:

16 Sec. 23.30.020. CHAPTER PART OF CONTRACT OF HIRE. This chapter  
17 constitutes part of every contract of hire, express or implied, and  
18 every contract of hire shall be construed as an agreement on the part  
19 of the employer to pay and on the part of the employee to accept  
20 compensation in the manner provided in this chapter for all personal  
21 injury, work related disease or death arising out of and in the course  
22 of employment [INJURIES SUSTAINED].

23 \* Sec. 7. AS 23.30.040(b) is amended to read:

24 (b) If an employee suffers a compensable injury which results  
25 in permanent partial disability, the employer or his insurance carrier  
26 shall, in addition to the compensation provided for, pay into the  
27 second injury fund a lump sum equal to eight per cent of the total  
28 compensation to which the employee is entitled for the permanent  
partial disability, as soon as the total amount of the permanent

1 partial disability payable for the particular injury is determined by  
2 the board. If an employee suffers death under this chapter and is at  
3 the time of his death unmarried, and leaves no children or dependents,  
4 the employer is required to pay to the second injury fund the sum of  
5 \$10,000 for the sole benefit of those entitled to participation as  
6 provided in this chapter. The provision of this subsection shall be  
7 waived in and during any calendar year when the unencumbered balance  
8 on January 1 in the second injury fund is equal to or exceeds the sum  
9 of \$500,000 [\$200,000].

10 \* Sec. 8. AS 23.30.040(e) is amended to read:

11 (e) The board or its designee may direct and provide the  
12 vocational retraining and rehabilitation of a permanently disabled  
13 person whose condition is a result of an injury compensable under this  
14 chapter by making cooperative arrangements with insurance carriers,  
15 private organizations and institutions or state or federal agencies.  
16 The expense of the retraining or rehabilitation, maintenance and net  
17 transportation which the board or its designee considers necessary  
18 shall be paid out of that portion of the second injury fund that  
19 exceeds \$10,000. [THE PERSON BEING RETRAINED OR REHABILITATED SHALL  
20 RECEIVE COMPENSATION FROM THE SECOND INJURY FUND FOR MAINTENANCE, IN  
21 THE SUM WHICH THE BOARD CONSIDERS NECESSARY, DURING THE PERIOD OF  
22 RETRAINING AND REHABILITATION, NOT EXCEEDING \$100 A MONTH. THE TOTAL  
23 EXPENDITURES FOR MAINTENANCE, TRAINING, REHABILITATION AND NECESSARY  
24 TRANSPORTATION MAY NOT EXCEED \$5,000 FOR ONE PERSON.]

25 \* Sec. 9. AS 23.30.045(a) is amended to read:

26 (a) An employer is liable for and shall secure the payment to  
27 his employees of the compensation payable under [SECS. 50, 95, 145,  
28 AND 180 - 215 OF] this chapter. If the employer is a subcontractor,  
29 the contractor is liable for and shall secure the payment of the

1 compensation to employees of the subcontractor unless the subcontractor  
2 secures the payment. A contractor or his carrier who is liable for  
3 compensation under this subsection may recover the amount of the  
4 compensation paid and necessary expenses from the contractor primarily  
5 liable for the compensation.

6 \* Sec. 10. AS 23.30.045(b) is amended to read:

7 (b) Compensation is payable without regard to [IRRESPECTIVE OF]  
8 fault as a cause for the injury, except compensation shall not be paid  
9 to an employee or anyone in his behalf with respect to injury or death  
10 caused solely by (1) the intoxication of the employee, or (2) the  
11 wilful intent of the employee to injure or kill himself or another

12 \* Sec. 11. AS 23.30.045(c) is amended to read:

13 (c) For a person eligible for vocational rehabilitation service  
14 [UNDER AS 23.15.080] and who is placed with an employer for service  
15 without wages at the request of an agency of the state [THE OFFICE OF  
16 VOCATIONAL REHABILITATION] to give him on the job training, work readi-  
17 ness or work therapy experience, or work sampling, the liability set  
18 out in (a) of this section applies to the state rather than to the  
19 employer.

20 \* Sec. 12. AS 23.30.050 is repealed.

21 \* Sec. 13. AS 23.30 is amended by adding a new section to read:

22 Sec. 23.30.053. EXTRATERRITORIAL COVERAGE. (a) If an employee  
23 while working outside the territorial limits of this state suffers an  
24 injury on account of which he, or in the event of his death, his  
25 dependents, would have been entitled to the benefits provided by this  
26 chapter had the injury occurred within this state, the employee, or  
27 in the event of his death resulting from the injury, his dependents,  
28 shall be entitled to the benefits provided by this chapter, if at the  
29 time of the injury

- 1 (1) his employment is principally localized in this state, or  
2 (2) he is working under a contract of hire made in this state  
3 in employment not principally localized in any state, or  
4 (3) he is working under a contract of hire made in this state  
5 in employment principally localized in another state whose workmen's  
6 compensation law is not applicable to his employer, or  
7 (4) he is working under a contract of hire made in this state  
8 for employment outside the United States and Canada.

9 (b) The payment or award of benefits under the workmen's compen-  
10 sation law of another state, territory, province or foreign nation  
11 to an employee or his dependents otherwise entitled on account of the  
12 injury or death to the benefits of this chapter is not a bar to a  
13 claim for benefits under this chapter if the claim under this chapter is  
14 filed within three years after the injury or death. If compensation  
15 is paid or awarded under this chapter

16 (1) the medical and related benefits furnished or paid for  
17 by the employer under other workmen's compensation law on account of  
18 injury or death shall be credited against the medical and related  
19 benefits to which the employee would have been entitled under this  
20 chapter had claim been made solely under this chapter;

21 (2) the total amount of all income benefits paid or awarded  
22 the employee under other workmen's compensation law shall be credited  
23 against the total amount of income benefits which would have been due  
24 the employee under this chapter, had claim been made solely under this  
25 chapter;

26 (3) the total amount of death benefits paid or awarded under  
27 the other workmen's compensation law shall be credited against the  
28 total amount of death benefits due under this chapter.

29 (c) If an employee is entitled to the benefits of this chapter by

1 reason of an injury sustained in this state in employment by an employer  
2 who is domiciled in another state and who has not secured the payment  
3 of compensation as required by this chapter, the employer or his  
4 carrier may file with the board a certificate, issued by the commission  
5 or agency of the state having jurisdiction over workmen's compensation  
6 claims, certifying that the employer has secured the payment of  
7 compensation under the workmen's compensation law of the other state  
8 and that with respect to the injury the employee is entitled to the  
9 benefits provided under the law. In that case

10 (1) the filing of the certificate constitutes an appointment  
11 by the employer or his carrier of the commissioner as his agent for  
12 acceptance of the service of process in any proceeding brought by the  
13 employee or his dependents to enforce his or their rights under this  
14 Act on account of the injury;

15 (2) the commissioner shall send to the employer or carrier,  
16 by registered or certified mail to the address shown on such certi-  
17 ficate, a true copy of any notice of claim or other process served on  
18 the commissioner by the employee or his dependents in any proceeding  
19 brought to enforce his or their rights under this chapter;

20 (3) the employer is a qualified self-insurer under the  
21 workmen's compensation law of such other state, the employer shall,  
22 upon submission of evidence, satisfactory to the board, of his ability  
23 to meet his liability to the employee under this Act, be considered a  
24 qualified self-insurer under this chapter;

25 (4) the employer's liability under the workmen's compensation  
26 law of the other state is insured, the employer's carrier, as to the  
27 employee or his dependents only, shall be considered an insurer  
28 authorized to write insurance under and be subject to this chapter;  
29 provided that unless its contract with the employer requires it to pay

1 an amount equivalent to the compensation benefits provided by this  
2 chapter, its liability for income benefits shall not exceed the amounts  
3 of those benefits for which such insurer would have been liable under  
4 the workmen's compensation law of the other state;

5 (5) if the total amount of which the employer's insurance is  
6 liable under (3) and (4) of this subsection is less than the total  
7 of the compensation benefits to which the employee is entitled under  
8 this chapter, the board may require the employer to file security,  
9 satisfactory to the board, to secure the payment of benefits due the  
10 employee or his dependents under this chapter; and

11 (6) upon compliance with the requirements of this subsection  
12 the employer, as to that employee only, shall be considered to have  
13 secured the payment of compensation under this chapter.

14 (d) As used in this section

15 (1) "United States" means the states of the United States  
16 and the District of Columbia;

17 (2) "state" means a state of the United States, the District  
18 of Columbia, or a province of Canada;

19 (3) "carrier" means an insurance company licensed to write  
20 workmen's compensation insurance in a state of the United States or  
21 in a state or provincial fund which insures employers against their  
22 liabilities under a workmen's compensation law;

23 (4) a person's employment is principally localized in this  
24 or another state when (A) his employer has a place of business in this  
25 or the other state and he regularly works at or from that place of  
26 business, or (B) he is domiciled and spends a substantial part of his  
27 working time in the service of his employer in this or the other state.

28 \* Sec. 14. AS 23.30.065 is amended to read:

29 Sec. 23.30.065. EMPLOYER'S RECORD OF INJURIES. An employer shall

1 keep a record in respect of an injury to an employee. The record  
2 shall contain the information [OF DISEASE, OTHER DISABILITY, OR DEATH]  
3 in respect to an injury which the board requires, and shall be avail-  
4 able to inspection by the board or by its designate [A STATE AUTHORITY]  
5 at the times and under the conditions which the board prescribes by  
6 regulation.

7 \* Sec. 15. AS 23.30.070(f) is amended to read:

8 (f) An employer who fails or refuses to send a report required  
9 of him by this section or who fails or refuses to send the report  
10 required by (a) of this section within the time required shall, if so  
11 required by the board, pay \$500 as a civil penalty or pay the  
12 employee or his legal representative or other person entitled to  
13 compensation by reason of the employee's injury or death an additional  
14 award equal to 20 per cent of the amounts which were unpaid when due or  
15 both. The award shall be against either the employer or his insurance  
16 carrier, or both.

17 \* Sec. 16. AS 23.30.075 is amended to read:

18 Sec. 23.30.075. EMPLOYER'S LIABILITY TO INSURE [PAY]. (a) An  
19 employer [UNDER THIS CHAPTER,] unless exempted, shall either insure  
20 and keep insured [FOR] his liability for compensation under this chapter  
21 in an insurance company or association duly authorized to transact the  
22 business of workmen's compensation insurance in this state, or shall  
23 furnish the board satisfactory proof of his financial ability to pay  
24 directly the compensation provided for. If an employer elects to pay  
25 directly, the board may, in its discretion, require the deposit of an  
26 acceptable security, indemnity or bond [TO SECURE THE PAYMENT OF  
27 COMPENSATION LIABILITIES AS THEY ARE INCURRED].

28 (b) An employer who fails to insure and keep insured his liability  
29 for compensation [EMPLOYEES SUBJECT TO THIS CHAPTER] or fails to obtain

1 a certificate of self-insurance from the board, upon conviction, is  
2 punishable by a fine of not more than \$1,000, or by imprisonment for  
3 not more than one year, or by both. If an employer is a corporation,  
4 all persons who, at the time of the injury or death, had authority to  
5 insure said corporation or apply for a certificate of self-insurance,  
6 and the person actively in charge of the business of such corporation  
7 shall be subject to the penalties prescribed herein and shall be  
8 personally, jointly, and severally liable together with the corporation  
9 for the payment of all compensation [OR OTHER BENEFITS] for which the  
10 corporation is liable under this chapter if said corporation at such  
11 time is not insured or qualified as a self-insurer.

12 \* Sec. 17. AS 23.30.080(a) is repealed.

13 \* Sec. 18. AS 23.30.080(b) is amended to read:

14 (b) In an action [BY AN EMPLOYEE] against an employer for  
15 [PERSONAL] injury or death [SUSTAINED] arising out of and in the course  
16 of the employment where the employer has failed to insure or otherwise  
17 [TO] provide security as required by [SEC. 75 OF] this chapter, it is  
18 presumed that the injury or death [TO THE EMPLOYEE] was the first  
19 result growing out of the negligence of the employer and that the  
20 employer's negligence was the proximate cause of the injury or death;  
21 the burden of proof rests upon the employer to rebut this presumption  
22 of negligence.

23 \* Sec. 19. AS 23.30.080(c) is amended to read:

24 (c) The limits of liability set out in this chapter do not apply  
25 when an action is brought against the employer under this section.

26 \* Sec. 20. AS 23.30.080 is amended by adding a new subsection to read:

27 (d) When the commissioner or his designee determines that an  
28 employer has failed to comply with this section, written notice shall  
29 be given to the employer of the violation and after notice the commis-

1 sioner or his designee may order the employment site or part of the  
2 site closed and the employees removed from it until the employer  
3 complies with this section.

4 \* Sec. 21. AS 23.30.085 is amended to read:

5 Sec. 23.30.085. DUTY OF EMPLOYER TO FILE EVIDENCE OF COMPLIANCE.

6 (a) An employer subject to this chapter, unless exempted, shall ini-  
7 tially file with the board, in the form prescribed by the board,  
8 evidence of his compliance with the insurance provisions of this  
9 chapter [WITH THE BOARD, IN THE FORM PRESCRIBED BY IT]. The employer  
10 shall also give evidence of compliance within 10 days after the  
11 termination of his insurance by expiration or cancellation. These  
12 requirements do not apply to an employer who has certification from  
13 the board of his financial ability to pay compensation directly without  
14 insurance.

15 (b) If an employer fails, refuses, or neglects to comply with  
16 the provision of this section, he shall be subject to the penalties  
17 provided in sec. 70 of this chapter for failure to report accidents;  
18 but nothing in this section may be construed to affect the rights  
19 conferred upon an [INJURED] employee or his beneficiaries under this  
20 chapter.

21 \* Sec. 22. AS 23.30.092 is repealed.

22 \* Sec. 23. AS 23.30.095(a) is amended to read:

23 (a) The employer shall furnish medical and related benefits  
24 [, SURGICAL, AND OTHER ATTENDANCE OR TREATMENT, NURSE AND HOSPITAL  
25 SERVICE, MEDICINE, CRUTCHES, AND APPARATUS] for the period which the  
26 nature of the injury or the process of recovery requires [, NOT  
27 EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE.  
28 HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR  
29 MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD RUNS FROM THE TIME THE

1 EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELA-  
2 TIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT. IT SHALL BE  
3 ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH  
4 BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS  
5 THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED  
6 TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE].

7 When medical care is required, the injured employee may designate a  
8 licensed physician inside the state to render the care except in cases  
9 where, in the judgment of the board, care or treatment or both can best  
10 be administered by the selection of another physician. Upon procuring  
11 the services of a physician, the injured employee shall give proper  
12 notification of his selection to the employer within a reasonable time  
13 after first being treated. If for any reason during the period when  
14 medical care is required the employee wishes to change to another  
15 physician, he may do so in accordance with rules prescribed by the  
16 board.

17 \* Sec. 24. AS 23.30.095(c) is amended to read:

18 (c) No claim for medical or surgical treatment is valid and  
19 enforceable as against the employer or employee unless, within 20  
20 days following the first treatment or subsequent treatment, the  
21 physician giving the treatment or the employee receiving it furnishes  
22 to the employer and the board notice of the injury and treatment,  
23 preferably on a form prescribed by the board. The board may, however,  
24 excuse the failure to furnish notice within 20 days when it finds it to  
25 be in the interest of justice to do so, and it may, upon application  
26 by a party in interest, make an award for the reasonable value of the  
27 medical or surgical treatment so obtained by the employee.

28 \* Sec. 25. AS 23.30.095(e) is amended to read:

29 (e) The employee shall, after an injury, at reasonable times

1 during the continuance of his disability if requested by his employer  
2 or, when ordered by the board, submit himself to an examination by a  
3 physician or panel of physicians [SURGEON] authorized to practice  
4 medicine under the laws of the state in which the examination is to  
5 be held [EMPLOYEE MAY BE FOUND], furnished and paid for by the employer.  
6 The employee has the right to have a physician, paid for by the  
7 employer, present at the examination or examinations. No medical  
8 information [FACT RELATIVE TO THE INJURY OR CLAIM] communicated to or  
9 otherwise learned by a physician [OR SURGEON] who may have attended  
10 or examined the employee, or who may have been present at an  
11 examination is privileged, either in the proceedings [HEARINGS]  
12 provided for in this chapter or an action prosecuted by the employee or  
13 by a person on his behalf, in a court of competent jurisdiction to  
14 recover damages against an employer who is subject to the compensation  
15 provisions of this chapter. If an employee refuses to submit himself  
16 to any examination provided for herein, his rights to compensation shall  
17 be suspended until the obstruction or refusal ceases, and his compensa-  
18 tion during the period of suspension may, in the discretion of the board  
19 or the court determining an action brought for the recovery of damages  
20 hereunder, be forfeited. The board in any case of death may require  
21 an autopsy at the expense of the party requesting the autopsy. No  
22 autopsy may be held without notice first being given to the widow or  
23 next of kin if they reside in the state or their whereabouts can be  
24 reasonably ascertained, of the time and place of the autopsy and  
25 reasonable time and opportunity given the widow or next of kin to  
26 have a representative present to witness the autopsy. If no adequate  
27 notice is given, the findings from the autopsy may be suppressed on  
28 motion made to the board or to the superior court, as the case may be.

29 \* Sec. 26. AS 23.30.095(f) is amended to read:

1 (f) All fees and other charges for medical treatment or service  
2 are limited to the charges that prevail in the same community for  
3 similar treatment of injured persons of like standard of living and  
4 shall be subject to regulation by the board. The board in its discre-  
5 tion for good cause may allow or reduce all or a part of the fees. If  
6 the board in its discretion disallows or reduces fees the board shall  
7 set out the grounds for the disallowance or reduction in its order  
8 or award and serve a copy of the order or award by certified mail,  
9 return receipt, upon the person performing for or billing for the fees.  
10 If fees have been disallowed or reduced by the board any person may  
11 petition the board for review of its action by filing written notice  
12 with the board within 30 days of receipt of the board's order. The  
13 date of receipt is to be determined by the certified mail, return  
14 receipt.

15 \* Sec. 27. AS 23.30.095(g) is amended to read:

16 (g) Nothing in this section limits the right of the employee to  
17 provide in any case at his own expense a consulting physician [, SUR-  
18 GEON, CHIROPRACTOR OR OSTEOPATH OR ANY ATTENDING PHYSICIAN, SURGEON,  
19 CHIROPRACTOR OR OSTEOPATH WHOM HE DESIRES].

20 \* Sec. 28. AS 23.30.095(1) is amended to read:

21 (1) Interference by a person with the selection by an injured  
22 employee of an authorized physician to treat him, or the improper  
23 influencing or attempt by a person to influence a medical opinion of  
24 a physician who has treated or examined an injured employee is a  
25 misdemeanor punishable upon conviction in accordance with the provisions  
26 of sec. 250 of this chapter.

27 \* Sec. 29. AS 23.30.100(a) is amended to read:

28 (a) Notice of an injury or death in respect to which compensation  
29 is payable under this chapter shall be given by the employee or

1 beneficiary within 30 days after the date of such injury or death to  
2 the board and to the employer.

3 \* Sec. 30. AS 23.30.105(a) is amended to read:

4 (a) The right to compensation [FOR DISABILITY] under this chapter  
5 is barred unless a claim for it is filed within three [TWO] years after  
6 the employee has knowledge of the nature of his disability and its  
7 relation to his employment and after disablement or three years after  
8 the first loss in wage-earning capacity which the employee knew or,  
9 by exercise or reasonable diligence, should have known was because of  
10 work-related impairment, except that if compensation has been paid with  
11 respect to the injury or death, within three years of the date of last  
12 payment [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT  
13 OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS  
14 FROM THE DATE OF INJURY, AND THE RIGHT TO COMPENSATION FOR DEATH IS  
15 BARRED UNLESS A CLAIM THEREFOR IS FILED WITHIN ONE YEAR AFTER THE DEATH,  
16 EXCEPT THAT IF PAYMENT OF COMPENSATION HAS BEEN MADE WITHOUT AN AWARD  
17 ON ACCOUNT OF THE INJURY OR DEATH, A CLAIM MAY BE FILED WITHIN TWO  
18 YEARS AFTER THE DATE OF THE LAST PAYMENT. IT IS ADDITIONALLY PROVIDED  
19 THAT, IN THE CASE OF LATENT DEFECTS PERTINENT TO AND CAUSING COMPENSABLE  
20 DISABILITY, THE INJURED EMPLOYEE HAS FULL RIGHT TO CLAIM AS SHALL BE  
21 DETERMINED BY THE BOARD, TIME LIMITATIONS NOTWITHSTANDING].

22 \* Sec. 31. AS 23.30.110(b) is amended to read:

23 (b) Within 10 days after a claim is filed the board, in accordance  
24 with its regulations, shall notify the employer's insurance carrier  
25 [EMPLOYER] and any other person (other than the claimant) whom the  
26 board considers an interested party that a claim has been filed. The  
27 notice may be served personally upon the employer or other person, or  
28 sent by registered or certified mail.

29 \* Sec. 32. AS 23.30.110(c) is amended to read:

1 (c) The board shall make the investigation which it considers  
2 necessary in respect of the claim, and upon application of an interested  
3 party shall order a hearing on it. If a hearing on a claim is ordered  
4 the board shall give the claimant and other interested parties at  
5 least 10 days' notice of the hearing, served personally upon the  
6 claimant and other interested parties or sent by registered or certified  
7 mail, and shall, within a reasonable time, not to exceed 60 [20] days  
8 after the hearing is had, by order, reject the claim or make an award  
9 in respect to it. If no hearing is ordered within 20 days after notice  
10 is given as provided in (b) of this section, then in absence of good  
11 cause determined by the board, the board shall by order reject the  
12 claim or make an award in respect to it. However, in the event the  
13 order has been entered without a hearing by the board an interested  
14 party may proceed in accordance with sec. 130 of this chapter.

15 \* Sec. 33. AS 23.30.110(e) is amended to read:

16 (e) The order rejecting the claim or making the award (referred  
17 to in this chapter as a compensation order) shall be filed in the  
18 office of the board, and a copy of it shall be sent by registered  
19 or certified mail to each interested party receiving notice under (b)  
20 of this section and to their attorneys [THE CLAIMANT AND TO THE  
21 EMPLOYER] at the last known address of each.

22 \* Sec. 34. AS 23.30.110(f) is amended to read:

23 (f) An award of compensation [FOR DISABILITY] may be made after  
24 the death of an injured employee.

25 \* Sec. 35. AS 23.30.110(g) is repealed.

26 \* Sec. 36. AS 23.30.115(a) is amended to read:

27 (a) No person other than a person who has filed claim for  
28 compensation is required to attend as a witness in a proceeding before  
29 the board at a place more than 100 miles from his place of residence,

1 unless his lawful mileage and fee for one day's attendance is first  
2 paid or tendered to him; but the testimony of a witness may be taken by  
3 deposition or interrogatories according to the Rules of Civil Procedure.

4 \* Sec. 37. AS 23.30.125(b) is repealed.

5 \* Sec. 38. AS 23.30.125(e) is amended to read:

6 (e) Proceedings for suspending, setting aside, or enforcing a  
7 compensation order, whether rejecting a claim or making an award, may  
8 not be instituted except as provided in this section [AND SEC. 170 OF  
9 THIS CHAPTER].

10 \* Sec. 39. AS 23.30.135(b) is amended to read:

11 (b) All testimony given during a hearing before the board shall  
12 be recorded, but need not be transcribed unless further review is  
13 initiated. A party initiating review or appeal shall, unless excused  
14 by the board in writing, within 10 days of filing the request for review  
15 or appeal, deposit the sum the board estimates as the cost of transcrip-  
16 tion. Any excess of actual cost over the estimate is payable on demand  
17 by the board. The cost of transcription may in the discretion of the  
18 board be awarded as a cost to the prevailing party or parties to the  
19 review or appeal. Hearings before the board shall be open to the  
20 public.

21 \* Sec. 40. AS 23.30.145(a) is amended to read:

22 (a) Fees for legal services rendered in respect to a claim are  
23 not valid unless approved by the board [, AND THE FEES MAY NOT BE LESS  
24 THAN 25 PER CENT ON THE FIRST \$1,000 OF COMPENSATION OR PART OF THE  
25 FIRST \$1,000 OF COMPENSATION, AND 10 PER CENT OF ALL SUMS IN EXCESS OF  
26 \$1,000 OF COMPENSATION]. When the board advises that a claim has been  
27 controverted, in whole or in part, the board may direct that the fees  
28 for legal services be paid by the employer or carrier in addition to  
29 compensation awarded; the fees may be allowed only on the amount of

1 compensation controverted and awarded. When the board advises that  
2 a claim has not been controverted, but further advises that bona fide  
3 legal services have been rendered in respect to the claim, then the  
4 board shall direct the payment of the fees out of the compensation  
5 awarded. In determining the amount of fees out of the compensation  
6 consideration the nature, length and complexity of the services per-  
7 formed, transportation charges, and the benefits resulting from the  
8 services to the compensation beneficiaries. The board has the discre-  
9 tion to make a lump sum award of attorney fees at the time of entry  
10 of an order accepting or rejecting a claim.

11 \* Sec. 41. AS 23.30.150 is amended to read:

12 Sec. 23.30.150. COMMENCEMENT OF COMPENSATION. No compensation  
13 may be allowed for the first three days of the disability, except the  
14 medical and related benefits provided for in sec. 95 of this chapter;  
15 if, however, the injury results in disability of more than 14 [28] days,  
16 compensation shall be allowed from the date of the disability.

17 \* Sec. 42. AS 23.30.155(b) is amended to read:

18 (b) The first installment of compensation becomes due on the  
19 14th day after the employer has knowledge of the injury or death. On  
20 this date all compensation then due shall be paid. Subsequent compen-  
21 sation shall be paid in installments, semimonthly, except where the  
22 board determines that payments [PAYMENT IN INSTALLMENTS] should be made  
23 [MONTHLY OR] at some other period.

24 \* Sec. 43. AS 23.30.155(c) is amended to read:

25 (c) Upon making the first payment, and upon suspension of  
26 payment for any cause, the employer shall within five days send to  
27 [IMMEDIATELY NOTIFY] the board a notice [,] in accordance with  
28 a form prescribed by the board, stating the fact that payment of  
29 compensation has begun or has been suspended, as the case may be.

1 If the employer fails to notify the board within the time set in this  
2 subsection the board may assess a civil penalty of \$200 against the  
3 employer.

4 \* Sec. 44. AS 23.30.155(e) is amended to read:

5 (e) If any installment of compensation payable without an award  
6 is not paid within 14 days after it becomes due, as provided in (b)  
7 of this section, there shall be added to the unpaid installment an  
8 amount equal to 20 per cent of it, which shall be paid at the same  
9 time as, and in addition to, the installment, unless notice is filed  
10 under (d) of this section or unless the nonpayment is excused by the  
11 board [AFTER A SHOWING BY THE EMPLOYER THAT OWING TO CONDITIONS OVER  
12 WHICH HE HAD NO CONTROL THE INSTALLMENT COULD NOT BE PAID WITHIN THE  
13 PERIOD PRESCRIBED FOR THE PAYMENT].

14 \* Sec. 45. AS 23.30.155(g) is amended to read:

15 (g) Within 16 days after final payment of compensation has been  
16 made, the employer shall send to the board a notice in accordance with  
17 a form prescribed by the board stating the fact that final payment has  
18 been made, the total amount of compensation paid, the name of the  
19 employee and of any other person to whom compensation has been paid, the  
20 date of the injury or death, and the date to which compensation has  
21 been paid. If the employer fails to so notify the board within this  
22 time, the board may [SHALL] assess against the employer a civil penalty  
23 in the amount of \$200 [\$100].

24 \* Sec. 46. AS 23.30.155(1) is repealed.

25 \* Sec. 47. AS 23.30.170 is repealed.

26 \* Sec. 48. AS 23.30.175 is repealed and re-enacted to read:

27 Sec. 23.30.175. RATES OF COMPENSATION. (a) The weekly rate of  
28 compensation for disability or death shall not exceed the following  
29 percentages of the applicable state average weekly wage as determined by

1 the commissioner under (c) of this section

2 (1) 75 per cent or \$175, whichever is greater until  
3 September 30, 1974;

4 (2) 150 per cent during the period beginning October 1, 1974,  
5 and ending September 30, 1975;

6 (3) 175 per cent during the period beginning October 1, 1975,  
7 and ending September 30, 1976;

8 (4) 200 per cent beginning October 1, 1976.

9 (b) Compensation for total disability shall not be less than 50  
10 per cent of the applicable state average weekly wage determined by the  
11 commissioner under (c) of this section, except that if the employee's  
12 average weekly wages as computed under sec. 220 of this chapter are  
13 less than 50 per cent of the state average weekly wage, the employee  
14 shall receive his average weekly wages as compensation for total  
15 disability.

16 (c) As soon as practicable after June 30 of each year, and  
17 before October 1 of each year, the commissioner shall determine the  
18 state average weekly wage for the three consecutive calendar quarters  
19 ending June 30. This determination is the applicable state average  
20 weekly wage for the period beginning with October 1 of that year and  
21 ending September 30 of the next year. The initial determination under  
22 this subsection shall be made as soon as practicable after the  
23 effective date of this subsection.

24 (d) In computing death benefits under sec. 215 of this chapter,  
25 total weekly benefits to the widow or dependent widower or child or  
26 children may not be less than 50 per cent of the state average wage.

27 (e) Determinations under this section with respect to a period  
28 apply to an employee or a survivor currently receiving compensation for  
29 permanent total disability or death benefits during that period, as

1 well as to employees or survivors first awarded compensation during  
2 that period.

3 \* Sec. 49. AS 23.30.180 is amended to read:

4 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total  
5 disability adjudged to be permanent 70 [65] per cent of the average  
6 weekly wages shall be paid to the employee during the continuance of  
7 the total disability. Loss of both hands, or both arms, or both feet,  
8 or both legs, or both eyes, or of any two of them, or a permanent  
9 partial disability rating in excess of 69 per cent of the whole man,  
10 in the absence of conclusive proof to the contrary, constitutes per-  
11 manent total disability. In all other cases permanent total disability  
12 is determined in accordance with the facts.

13 \* Sec. 50. AS 23.30.185 is amended to read:

14 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In  
15 case of disability total in character but temporary in quality, 70  
16 [65] per cent of the average weekly wages shall be paid to the employee  
17 during the continuance of the disability.

18 \* Sec. 51. AS 23.30.190 is amended to read:

19 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY.  
20 In case of disability partial in character but permanent in quality  
21 the compensation is 70 [65] per cent of the average weekly wages in  
22 addition to compensation for temporary total disability or temporary  
23 partial disability paid in accordance with secs. 185 or 200 of this  
24 chapter, respectively, and shall be paid to the employee as follows:

25 (1) arm lost, 312 [280] weeks compensation [, NOT TO EXCEED  
26 \$21,840];

27 (2) leg lost, 288 [248] weeks compensation [, NOT TO EXCEED  
28 \$20,160];

29 (3) hand lost, 244 [212] weeks compensation [, NOT TO EXCEED

1 \$16,800];

2 (4) foot lost, 205 [173] weeks compensation [, NOT TO EXCEED  
3 \$14,350];

4 (5) eye lost, 160 [140] weeks compensation [, NOT TO EXCEED  
5 \$11,200];

6 (6) thumb lost, 75 [51] weeks compensation [, NOT TO EXCEED  
7 \$5,200];

8 (7) first finger lost, 46 [28] weeks compensation [, NOT TO  
9 EXCEED \$3,220];

10 (8) great toe lost, 38 [26] weeks compensation [, NOT TO  
11 EXCEED \$2,660];

12 (9) second finger lost, 30 [18] weeks compensation [: \$2,100];  
13 third finger lost, 25 [18] weeks compensation [: \$1,750];

14 (10) toe other than great toe lost, 16 [8] weeks compensation  
15 [, NOT TO EXCEED \$1,120];

16 (11) fourth finger lost, 15 [7] WEEKS COMPENSATION [, NOT TO  
17 EXCEED \$1,050];

18 (12) loss of hearing of one ear, 52 weeks compensation [, NOT  
19 EXCEEDING \$3,640]; loss of hearing of both ears, 200 weeks compensation  
20 [, NOT TO EXCEED \$14,000];

21 (13) compensation for loss of more than one phalange of a  
22 digit shall be the same as for loss of the entire digit; compensation  
23 for loss of all or part of the first phalange is one-half of the  
24 compensation for loss of the entire digit;

25 (14) amputation between the elbow and the wrist is considered  
26 equivalent to the loss of an arm, and amputation between the knee  
27 and ankle is considered equivalent to the loss of a leg;

28 (15) compensation for loss of binocular vision or for 80  
29 per cent or more of the vision of an eye is the same as for loss of

1 the eye;

2 (16) compensation for loss of two or more digits, or one or  
3 more phalanges of two or more digits of a hand or foot may be  
4 proportioned to the resulting loss of use of the injured hand or foot,  
5 but may not exceed the compensation for loss of a hand or foot;

6 (17) compensation for permanent total loss of use of a  
7 member is the same as for loss of the member;

8 (18) compensation for permanent partial loss or loss of  
9 use of a member may be for proportionate loss or loss of use of the  
10 member;

11 (19) in addition to other allowable compensation, the board  
12 shall award proper and equitable compensation up to \$10,000 for serious  
13 disfigurement of face, head and, when such disfigurement is likely  
14 to handicap the employee in securing or holding employment, for  
15 serious disfigurement of neck or limbs normally exposed;

16 (20) in all other cases in this class of disability the  
17 percentage of permanent disability to total disability shall be  
18 determined, and the disability payment computed and allowed, according  
19 to the following schedule:

<u>Range of percentage</u>	<u>Number of weeks for which compensation</u>
<u>of permanent</u>	<u>is payable for each one per cent of per-</u>
<u>disability incurred</u>	<u>manent disability</u>

<u>under 10</u>	<u>3</u>
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<u>10 through 19</u>	<u>4</u>
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<u>20 through 29</u>	<u>5</u>
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<u>30 through 49</u>	<u>6</u>
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<u>50 through 69</u>	<u>7</u>
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28 in determining the percentages of permanent disability under this  
29 paragraph, the nature of the physical injury or disfigurement, the

1 occupation of the injured employee, and his age at the time of the  
2 injury shall be considered and, consideration shall also be given  
3 to the diminished ability of the injured employee to compete in  
4 an open labor market [COMPENSATION IS 65 PER CENT OF THE DIFFERENCE  
5 BETWEEN HIS AVERAGE WEEKLY WAGES AND HIS WAGE-EARNING CAPACITY AFTER  
6 THE INJURY IN THE SAME EMPLOYMENT OR OTHERWISE, PAYABLE DURING THE  
7 CONTINUANCE OF THE PARTIAL DISABILITY, BUT SUBJECT TO RECONSIDERATION  
8 OF THE DEGREE OF THE IMPAIRMENT BY THE BOARD ON ITS OWN MOTION OR UPON  
9 APPLICATION OF A PARTY IN INTEREST; WHENEVER THE BOARD DETERMINES  
10 THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE  
11 EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD,  
12 MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM];

13 (21) in a case in which there is a loss of, or loss of use  
14 of more than one member or parts of more than one member set out in  
15 (1) - (18) of this section, not amounting to permanent total disability,  
16 the award of compensation is for the loss of, or loss of use of, each  
17 member or part of the member, which awards shall run consecutively,  
18 except that where the injury affects only two or more digits of the  
19 same hand or foot, (16) of this section applies;

20 (22) the board in its discretion may in making an award  
21 under this section order a lump sum payment for permanent disability  
22 compensation rather than a weekly payment; the employer or its  
23 insurance carrier, unless the board orders otherwise, may pay a lump  
24 sum payment for permanent partial disability compensation allowed  
25 under this section to the employee or other person entitled to receive  
26 it.

27 \* Sec. 52. AS 23.30.191 is repealed.

28 \* Sec. 53. AS 23.30.195(a) is amended to read:

29 (a) Compensation to which any claimant would be entitled under

1 sec. 190 of this chapter excepting (20) of that section shall, not-  
2 withstanding death arising from causes other than the injury, be  
3 payable to and for the benefit of the persons following:

4 (1) if there be a surviving widow [WIFE] or dependent  
5 widower [HUSBAND] and no child of the deceased, to the widow [WIFE]  
6 or dependent widower [HUSBAND];

7 (2) if there be a surviving widow [WIFE] or dependent  
8 widower [HUSBAND] and a surviving child or children of the deceased,  
9 one-half to the surviving widow [WIFE] or dependent widower [HUSBAND],  
10 the other half to the surviving child or children in equal shares;

11 (3) if there be a surviving child or children of the  
12 deceased, but no surviving widow [WIFE] or dependent widower [HUSBAND],  
13 then to the child or children in equal shares.

14 \* Sec. 54. AS 23.30.200 is amended to read:

15 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of  
16 temporary partial disability resulting in decrease of earning capacity  
17 the compensation shall be 70 [65] per cent of the difference between  
18 the injured employee's average weekly wages before the injury and his  
19 wage-earning capacity after the injury in the same or another employ-  
20 ment, to be paid during the continuance of the disability, but not to  
21 be paid for more than five years. The wage-earning capacity of an  
22 injured employee is determined by his actual earnings if the actual  
23 earnings fairly and reasonably represent his wage-earning capacity.  
24 If the employee has no actual earnings or his actual earnings do not  
25 fairly and reasonably represent his wage-earning capacity, the board  
26 may, in the interest of justice, fix the wage-earning capacity which  
27 is reasonable, having due regard to the nature of his injury, the degree  
28 of physical impairment, his usual employment, and other factors or  
29 circumstances which may affect his capacity to earn wages in his

1 disabled condition.

2 \* Sec. 55. AS 23.30.205(c) is amended to read:

3 (c) In order to qualify under this section for reimbursement from  
4 the second injury fund, the employer must establish by written records  
5 that the employer had knowledge of the permanent physical impairment  
6 before the subsequent injury and that the employee was hired or retained  
7 in employment after the employer acquired that knowledge, or that the  
8 employee willfully withheld knowledge from his employer of the exist-  
9 ence of such preexisting permanent physical impairment. Knowledge on  
10 the part of the employer shall be established if the preexisting  
11 physical impairment is of a nature that a reasonably prudent employer  
12 would have become aware of through observation.

13 \* Sec. 56. AS 23.30.205(d)(2) is amended to read:

14 (2) it would support a rating of disability of 104 [200]  
15 weeks or more if evaluated according to standards applied in compen-  
16 sation claims.

17 \* Sec. 57. AS 23.30.210 is repealed and re-enacted to read:

18 Sec. 23.30.210. COMPROMISE AND RELEASE AGREEMENTS. (a) At any  
19 time after death, or 30 days after the date of the injury, the  
20 employer and the employee or the beneficiary or beneficiaries, as  
21 the case may be, have the right to reach an agreement in regard to a  
22 claim for injury or death under this chapter in accordance with the  
23 applicable schedules, but a memorandum of the agreement in a form  
24 prescribed by the board shall be filed with the board or the agree-  
25 ment is void for any purpose. If approved by the board, the agree-  
26 ment is enforceable the same as an order or award of the board and  
27 discharges the liability of the employer for compensation notwith-  
28 standing provisions of this chapter to the contrary. The agreement  
29 shall be approved by the board only when the terms conform to the

1 provisions of this chapter and, if it involves or is likely to involve  
2 permanent disability, the board may require an impartial medical  
3 examination and hearing in order to determine whether or not to approve  
4 the agreement. The board may approve lump-sum settlements when it  
5 appears to be in the best interests of the employee or beneficiary or  
6 beneficiaries.

7 (b) An agreement as to the claim shall not discharge the liability  
8 of an employer for medical and related benefits unless the board in its  
9 order approving the agreement as provided in this section clearly finds  
10 and sets out that discharge is in the best interests of the employee or  
11 that under the facts of the claim justice and fair play require  
12 discharge.

13 \* Sec. 58. AS 23.30.215(a)(2) is amended to read:

14 (2) if there is a surviving widow [WIFE] or dependent  
15 widower [HUSBAND], to the surviving widow [WIFE] or dependent widower  
16 [HUSBAND] 70 [35] per cent of the average weekly wages of the deceased,  
17 during widowhood, or widowerhood with two years compensation [\$10,000]  
18 in one sum upon remarriage [, BUT TOTAL COMPENSATION NOT TO EXCEED  
19 \$20,000 IN THE AGGREGATE]; if there is also a surviving child or  
20 children of the deceased, 40 per cent of the average weekly wages  
21 shall be paid for the benefit of the widow or dependent widower and  
22 30 per cent for the child or share equally among the children; in  
23 case of death or remarriage of the widow or widower, if there be one  
24 surviving child of the deceased employee, the compensation of the  
25 child shall be increased up to 50 per cent of the average weekly  
26 wages, and if there is more than one child, to the children in equal  
27 shares, and 50 per cent of the average weekly wages shall be increased  
28 by 10 per cent for each additional child; provided the total death  
29 benefits shall not exceed 70 per cent of the average weekly wages

1 [THE ADDITIONAL AMOUNT OF 15 PER CENT OF THE AVERAGE WEEKLY WAGES  
2 FOR EACH CHILD NOT TO EXCEED 30 PER CENT OF THE AVERAGE WEEKLY WAGES,  
3 BUT THE TOTAL AMOUNT PAYABLE TO A WIDOW OR WIDOWER AND CHILDREN MAY  
4 IN NO CASE EXCEED 65 PER CENT OF THE AVERAGE WEEKLY WAGES, EXCEPT  
5 AS PROVIDED IN (b) OF THIS SECTION];

6 \* Sec. 59. AS 23.30.215(a)(3) is amended to read:

7 (3) if [IF] there is one or more surviving children of the  
8 deceased, but no surviving widow [WIFE] or dependent widower [HUSBAND],  
9 then for the support of the child or children 70 [35] per cent of the  
10 average weekly wages of the deceased share and share alike;

11 \* Sec. 60. AS 23.30.215(a)(4) is amended to read:

12 (4) if there is no surviving widow [WIFE] or dependent  
13 widower [HUSBAND] or child or children, then for the support of father,  
14 mother, grandchildren, brothers and sisters, if dependent upon the  
15 deceased at the time of injury, a weekly rate of compensation not  
16 exceeding the rate of contribution by the deceased during his lifetime  
17 to the dependent or dependents as determined by the board, not to  
18 exceed 70 per cent of the deceased's average weekly wages [35 PER CENT  
19 OF THE AVERAGE WEEKLY WAGE OF THE DECEASED TO SUCH BENEFICIARIES, SHARE  
20 AND SHARE ALIKE, NOT TO EXCEED \$20,000 IN THE AGGREGATE].

21 \* Sec. 61. AS 23.30.215(b) is repealed.

22 \* Sec. 62. AS 23.30.215(d) is amended to read:

23 (d) Compensation under this chapter to aliens not residents (or  
24 about to become nonresidents) of the United States or Canada is  
25 the same in amount as provided for residents, except that dependents in  
26 a foreign country are limited to surviving widow [WIFE] and child or  
27 children, or if there is no surviving widow [WIFE] and child or  
28 children, to surviving father or mother whom the employee has supported,  
29 either wholly or in part, for a period of one year before the date of

1 injury. The board, at its option, or upon the application of the  
2 insurance carrier, may commute all future installments of compensation  
3 to be paid to an alien dependent who is not a resident of the United  
4 States or Canada by paying or causing to be paid to him one-half of  
5 the commuted amount of the future installments of compensation as  
6 determined by the board.

7 \* Sec. 63. AS 23.30.215(e) is repealed.

8 \* Sec. 64. AS 23.30.220(3) is amended to read:

9 (3) if the board determines that the wage at the time of  
10 the injury cannot be fairly calculated under (1) or (2) of this  
11 section, or cannot otherwise be ascertained without undue hardship to  
12 the employee, the board may in its discretion calculate the average  
13 weekly wage taking into consideration the actual earnings of the  
14 injured workman [WAGE FOR CALCULATING COMPENSATION SHALL BE THE USUAL  
15 WAGE FOR SIMILAR SERVICE RENDERED BY PAID EMPLOYEES UNDER SIMILAR  
16 CIRCUMSTANCES, AS DETERMINED BY THE BOARD];

17 \* Sec. 65. AS 23.30.220(5) is repealed.

18 \* Sec. 66. AS 23.30 is amended by adding a new section to read:

19 Sec. 23.30.231. EMPLOYERS COVERED. The following are employers  
20 subject to the provisions of this chapter:

21 (1) a person who has in the state one or more employees  
22 subject to this chapter;

23 (2) the state, any state agency, and each municipality that  
24 has one or more employees subject to this chapter.

25 \* Sec. 67. AS 23.30 is amended by adding a new section to read:

26 Sec. 23.30.232. EMPLOYEES COVERED. The following are employees  
27 subject to the provisions of this chapter, except as exempted under  
28 sec. 233 of this chapter:

29 (1) Persons including minors lawfully or unlawfully employed

1 in the service of an employer under a contract of hire or apprentice-  
2 ship, express or implied, and all helpers and assistants of employees  
3 whether paid by the employer or employee if employed with the actual  
4 or constructive knowledge of the employer.

5 (2) Executive officers of corporations.

6 (3) Persons in the service of the state or of a municipality  
7 under a contract of hire, express or implied and officials and officers  
8 of the state or of a municipality whether elected or appointed when  
9 performing official duties. Persons who are members of a volunteer  
10 fire or police department for the purposes of this chapter are consi-  
11 dered to be employees of the municipality where the department is  
12 organized. Persons who are regularly enrolled as volunteer members  
13 or trainees of the civil defense system and persons who are regularly  
14 enrolled members of the Alaska National Guard for purposes of this  
15 chapter are considered to be employees of the state when not engaged  
16 solely in federal service.

17 (4) Persons performing service in the course of the trade,  
18 business, profession or occupation of an employer at the time of the  
19 injury, provided the person in respect to this service does not maintain  
20 a separate business, does not hold himself out and render service to  
21 the public and is not himself an employer subject to this chapter.

22 (5) Except as provided in (4) of this section, persons  
23 regularly selling or distributing newspapers on the street or to  
24 customers at their homes or places of business. For the purposes of  
25 this chapter a person is considered an employee of an independent  
26 news agency for whom he is selling or distributing newspapers, or,  
27 in the absence of such an independent agency, the employee of each  
28 publisher whose newspapers he sells or distributes.

29 \* Sec. 68. AS 23.30 is amended by adding a new section to read:

1           Sec. 23.30.233. EXEMPTIONS. The following are exempt from the  
2 coverage of this chapter:

3           (1) a person employed as a household worker in a private  
4 home or household who earns less than \$50 in any three-month period  
5 from a single private home or household; and

6           (2) a person employed as a casual worker in a private  
7 home or household who earns less than \$50 in any three-month period  
8 from a single private home or household.

9 \* Sec. 69. AS 23.30 is amended by adding a new section to read:

10           Sec. 23.30.234. VOLUNTARY COVERAGE. (a) An individual who is  
11 a sole proprietorship, or a member of a partnership, joint venture,  
12 association or similar association, not otherwise an employee covered  
13 by this chapter, may agree with an insurance carrier to have himself  
14 covered in the same manner as an employee covered under this chapter,  
15 provided the insurance carrier is authorized to transact business in  
16 the state at the time the coverage goes into effect, or is otherwise  
17 a qualified insurance carrier under this chapter.

18 \* Sec. 70. AS 23.30.325, 23.30.240 and 23.30.242 are repealed.

19 \* Sec. 71. AS 23.30.265 is repealed and re-enacted to read:

20           Sec. 23.30.265. DEFINITIONS. In this chapter

21           (1) "adoption" or "adopted" means legal adoption before the  
22 time of the injury;

23           (2) "average weekly wage" means the employee's or decedent's  
24 average weekly wage;

25           (3) "applicable state average weekly wage" means the average  
26 weekly wage of all nonsupervisory employees in the state as determined  
27 by the commissioner under sec. 175(c) of this chapter;

28           (4) "board" means the Alaska Workmen's Compensation Board;

29           (5) "brother" and "sister"

1 (A) include only a person who is under 19 years of age,  
2 or who, though 19 years of age or over, is

3 (i) wholly dependent on the employee and incapable  
4 of self-support by reason of mental or physical disability, or

5 (ii) a student as defined in paragraph (24) of  
6 this section;

7 (B) include stepbrothers, half brothers and half sisters,  
8 and brothers and sisters by adoption;

9 (C) do not include married brothers and sisters unless  
10 wholly dependent on the employee;

11 (6) "carrier" means a person authorized to insure under  
12 this chapter and includes self-insurers;

13 (7) "child" and "grandchild"

14 (A) include only a person who is under 19 years of age,  
15 or who, though 19 years of age or over, is

16 (i) wholly dependent on the employee and incapable  
17 of self-support by reason of mental or physical disability, or

18 (ii) a student as defined in paragraph (24) of  
19 this section;

20 (B) include a posthumous child, a child legally adopted  
21 prior to the injury of the employee, a child in relation to whom  
22 the deceased employee stood in loco parentis for at least one year  
23 prior to the date of injury, and a stepchild or acknowledged  
24 illegitimate child dependent on the deceased employee;

25 (C) do not include married children and grandchildren  
26 unless wholly dependent on the employee;

27 (8) "commissioner" means the commissioner of labor;

28 (9) "compensation" means only the money allowance payable to  
29 or on behalf of an employee or his dependents, as provided in secs.

1 95, 180, 185, 190, 200 and 215 of this chapter, and includes the funeral  
2 benefits provided for in this chapter;

3 (10) "death" as a basis for a right to compensation means  
4 only death resulting from an injury;

5 (11) "disability" means incapacity because of injury to earn  
6 the wages which the employee was receiving at the time of injury in  
7 the same or any other employment;

8 (12) "employee" means a person performing a service for an  
9 employer, who is covered or excluded from coverage under secs. 232,  
10 233 and 234 of this chapter;

11 (13) "employer" means each employer described in sec. 231  
12 of this chapter for whom an employee covered by this chapter performs  
13 a service;

14 (14) "injury" means injury or death arising out of and in  
15 the course of employment, and an occupational disease or infection which  
16 arises naturally out of the employment or which naturally or unavoidably  
17 results from an injury, and includes breakage or damage to eyeglasses,  
18 hearing aids, dentures, or any prosthetic devices which function as  
19 part of the body and further includes an injury caused by the wilful  
20 acts of a third person and directed against an employee because of his  
21 employment;

22 (15) "insurance commissioner" refers to the person who heads  
23 the insurance division or section of the Department of Commerce and is  
24 charged with the administration of the state insurance laws;

25 (16) "married" includes a person who is divorced but is  
26 required by the decree of divorce to contribute to the support of his  
27 former wife;

28 (17) "medical and related benefits" includes but is not  
29 limited to physicians' fees, nurses' charges, hospital services,

1 hospital supplies, medicine and prosthetic devices, physical rehabilita-  
2 tion, and treatment for the fitting and training for use of such  
3 devices as may reasonably be required which arises out of or is  
4 necessitated by an injury, and transportation charges to the nearest  
5 point where adequate medical facilities are available;

6 (18) "National Guard" means the authorized and organized  
7 Alaska National Guard, including the air arm when not under federal  
8 mobilization;

9 (19) "parent" includes stepparents and parents by adoption,  
10 parents-in-law, and a person who for more than three years before the  
11 death of the deceased employee stood in the place of a parent to him,  
12 if dependent on the injured employee;

13 (20) "person" means an individual, partnership or association,  
14 business, charitable or nonprofit corporation, the state and the  
15 municipalities of the state;

16 (21) "physician" includes doctors of medicine, surgeons,  
17 chiropractors, osteopaths, dentists, and optometrists;

18 (22) "prosthetic devices" includes but is not limited to  
19 eye-glasses, hearing aids, dentures, and such other devices and  
20 appliances, and the repair or replacement of the devices necessitated  
21 by ordinary wear and arising out of an injury;

22 (23) "self-insurer" means an employer, who, instead of in-  
23 suring his liability under this chapter as it provides, elects to pay  
24 directly the compensation provided for and who has furnished to the  
25 board satisfactory proof of his financial ability to make the direct  
26 payment;

27 (24) "student"

28 (A) means a person regularly pursuing a full-time  
29 course of study or training at an institution which is

1 (i) a school or college or university operated or  
2 directly supported by the United States or by a state or  
3 local government,

4 (ii) a school or college or university which has  
5 been accredited by a state or by a recognized accrediting  
6 agency or body,

7 (iii) a school or college or university not ac-  
8 credited but whose credits are accepted, on transfer by not  
9 less than three institutions which are accredited, for credit  
10 on the same basis as if transferred from an accredited  
11 institution, or

12 (iv) another type of educational or training in-  
13 stitution defined by the board,

14 (B) includes a child during an interim between school  
15 years if the interim does not exceed five months and if the child  
16 shows to the satisfaction of the board that he has a bona fide  
17 intention of continuing to pursue a full-time course of education  
18 or training in an appropriate institution during the enrollment  
19 period immediately following the interim, or during a period in  
20 which, in the judgment of the board, he is prevented by factors  
21 beyond his control from pursuing his education,

22 (C) does not include a person who reaches the age of 25  
23 or has completed four years of education beyond the high school  
24 level, however if his 25th birthday occurs during an enrollment  
25 period he shall be considered a student until the end of the en-  
26 rollment period,

27 (D) does not include a child serving in the armed  
28 forces of the United States;

29 (25) "wages" means the money rate at which the service

1 rendered is recompensed under the contract of hiring in force at the  
2 time of the injury, and includes the reasonable value of board, rent,  
3 housing, lodging, or similar advantage received from the employer,  
4 and gratuities received in the course of employment from others than  
5 the employer;

6 (26) "widow" includes only the decedent's wife living with  
7 or dependent for support on him at the time of his death, or living  
8 apart for justifiable cause or by reason of his desertion at such a  
9 time; if two or more females qualify as a "widow" under this paragraph,  
10 the board shall determine the amount of compensation payable to each  
11 widow, but the employer or carrier are not liable to pay compensation  
12 in excess of the aggregate compensation payable under sec. 215 of this  
13 chapter only one female qualified as the "widow";

14 (27) "widower" includes only the decedent's husband who at  
15 the time of her death lived with her and was dependent for support  
16 upon her.

17 \* Sec. 72. This Act takes effect on the day after its passage and  
18 approval or on the day it becomes law without approval.  
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